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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/305,457	05/06/99	ABDULLOVSKI	F

IM22/0209
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EXAMINER

WEINSTEIN
ART UNIT PAPER NUMBER

1761

DATE MAILED:

02/09/00

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☐ Responsive to communication(s) filed on _____

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or ~~thirty days~~, ~~whichever is longer~~, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-4 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-4 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

—SEE OFFICE ACTION ON THE FOLLOWING PAGES—

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Reference V.

Reference V discloses a combination package for the retail sale of snack foods, comprising a package containing a plurality of snack food (eg. potato chips) and a smaller package (a packet) containing a condiment product (a dill and herb mix) for use with the snack food, wherein said smaller package is inherently sealed since otherwise the mix would mix with the chips. Note the packet is inside the bag.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reference V in view ~~W~~ of Reference U, further in view of Reference ~~X~~W, Reference X and Reference N.

Reference V is relied on as above. Claim 2 differs from Reference V ~~to~~ in the recitation that the snack food is tortilla chips. Once it is known to package a snack food and a condiment, the particular conventional snack food selected is seen to have been an obvious result effective

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variable and an obvious matter of choice. In any case, Reference U can be relied on to teach an outer package containing tortilla chips and an inner container containing a dip. Reference W and X are relied on as further evidence of the conventionality of marketing chips with a separately packaged dip or other condiment.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being ~~clearly~~ anticipated by Reference U which teaches a package containing a container which contains a condiment and would be inherently sealed from the snack food.

Claim 1 is rejected under 35 U.S.C. 102(b) as being ^{clearly} anticipated by Voss (Ref. N).

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the referees as applied to claim 2 above, and further in view of applicant's admission of the prior art.

Claims 3 and 4 recite a cup shaped container and a packet respectively. Applicant's admission of the prior art on page 4 of the specification discloses that the condiment packages disclosed and recited are "typical state of the art" packages. Once it is known to provide a package with an inner condiment containing package, the particular conventional packaging structure employed is seen to have been an obvious result effective variable. That is, to substitute one conventional packaging structure for another conventional packaging structure for its art recognized and applicants intended function is seen to have been obvious.

The remainder of the references cited on the USPTO 892 form are cited as art of interest.

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Any inquiry concerning this communication should be directed to Mr. Weinstein at telephone number (703) 308-0650.

Weinstein/mm

February 2, 2000

February 3, 2000

Steven Weinstein
STEVEN WEINSTEIN
PRIMARY EXAMINER
ART UNIT 132 1761
2/3/00